

POMERANTZ LLP

Attorneys at Law

Jeremy A. Lieberman
jalieberman@pomlaw.com

600 Third Avenue
New York, New York 10016
T: 212.661.1100 F: 212.661.8665

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VIA ECF

Honorable Naomi Reice Buchwald
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street – Courtroom 21A
New York, NY 10007-1312

Re: *In re LIBOR-Based Financial Instruments Antitrust Litig.*, No. 11-MD-2262 (NRB);

***The Berkshire Bank and Government Development Bank for Puerto Rico v. Bank of America, et al.*, No. 12-cv-5723-NRB; and**

***Directors Financial Group v. Bank of America, et al.*, No. 13-cv-01016-NRB**

Dear Judge Buchwald:

We are counsel for plaintiffs Berkshire Bank, Government Development Bank for Puerto Rico, and Directors Financial Group (the, “Lender Class Plaintiffs” or “Plaintiffs”) in the above-referenced actions (the “Lender Class Cases”). Pursuant to your Honor’s Individual Practices, we write this letter on behalf of the Lender Class Plaintiffs to request a pre-motion conference with the Court to address the following issues:

1. Plaintiffs’ request to file a motion to lift the stay of the Lender Class Cases, which was entered pursuant to this Court’s August 14, 2012 Order, ECF No. 205; and¹
2. Plaintiffs’ request to file a motion for appointment as interim lead plaintiff on behalf of all lending institutions headquartered in the states and territories of the United States that originated, purchased outright, or purchased a participation interest in, loans paying interest at rates tied to the U.S. Dollar London Interbank Offered Rate (“USD LIBOR”) at any time between August 1, 2007 and May 31, 2010, both dates inclusive (the “Lender Class”), and the selection of Interim Lead Counsel.

¹ References to “ECF” refer to the ECF docket entries of the MDL.

Honorable Naomi Reice Buchwald
In re LIBOR-Based Financial Instruments Antitrust Litigation
11-MD-2262 (NRB)
July 2, 2014
Page | 2

Motion To Lift Stay

On August 14, 2012, this Court entered an Order staying all related actions not subject to Defendants' then pending Motion to Dismiss. ECF No. 205. The Lender Class Cases were stayed as a result of that ruling. Thereafter, on March 29, 2013, this Court entered a Memorandum and Order denying in part and granting in part the pending Motions. ECF No. 286.

On April 23, 2013, the Lender Class Plaintiffs, which at that point included Community Bank & Trust, requested leave to file a motion to lift the stay imposed by the August 14, 2012 Order. On May 3, 2013, the Court issued a Memorandum and Order, which in relevant part, denied this and similar requests made by other related putative class plaintiffs, stating that the "stay shall remain in place for now with respect to cases that raised issues addressed in" the Court's March 29, 2013 Memorandum and Order, but advised the stayed parties that "if there are any complaints that do not raise any such issue," such plaintiffs should advise the Court. ECF No. 309.

On May 28, 2013, the Lender Class Plaintiffs advised the Court that their claims, which are primarily based on common law fraud, were not covered by the March 29, 2013 Memorandum and Order. As such, the Lender Class Plaintiffs requested that the April 14, 2012 stay be lifted as to their claims, to allow for the appointment of the Lender Class Plaintiffs as Interim Lead Plaintiffs, and their respective counsel Pomerantz LLP², Shapiro Haber & Urmy LLP and Shephard, Finkelman, Miller & Shah LLP, as Interim Co-Lead Counsel. In a Memorandum and Order dated August 23, 2013, this Court denied the Lender Class Plaintiffs' request to lift the stay, as well as similar requests made by putative class plaintiffs in other related actions, pending further order of the Court, specifically noting that "the legal landscape of this case . . . is still somewhat of a state of flux." ECF No. 389.

Since the issuance of the August 23, 2013 Order, on June 23, 2014, the Court issued an additional Memorandum and Order, which substantially resolved the pending Motions to Dismiss and Motions to Amend. ECF No. 568, at 79 (noting that "it has been nearly two years since defendants first moved to dismiss plaintiffs' consolidated amended complaints . . . Now, at long last there is clarity"). In light of this Order, the Lender Class Plaintiffs believe that the time is ripe to allow for the prosecution of their claims. Accordingly, the Lender Class Plaintiffs respectfully request a pre-motion conference regarding the Lender Class Plaintiffs' anticipated Motion to the lift the August 14, 2012 stay.

² Beginning on January 1, 2014, Pomerantz Grossman Hufford Dahlstrom & Gross LLP changed its name to Pomerantz LLP.

Honorable Naomi Reice Buchwald
In re LIBOR-Based Financial Instruments Antitrust Litigation
11-MD-2262 (NRB)
July 2, 2014
Page | 3

Motion For Appointment As Interim Lead Plaintiff & Interim Lead Counsel

On March 13, 2014, Lender Class Plaintiff Community Bank & Trust filed a Notice of Voluntary Dismissal of its complaint against Defendants, which was So Ordered by this Court on March 18, 2014. ECF No. 606. The remaining Lender Class Plaintiffs, Berkshire Bank, Government Development Bank for Puerto Rico, and Directors Financial Group, are all represented by Pomerantz LLP. The Lender Class Plaintiffs are not aware of any other plaintiffs seeking to represent the Lender Class.

Accordingly, Plaintiffs respectfully request a pre-motion conference to address the filing of a motion seeking appointment as Interim Lead Plaintiff and the selection of Interim Lead Counsel on behalf of the Lender Class, as well as to discuss a schedule for the filing of an amended complaint, and a briefing schedule regarding Defendants' anticipated motion to dismiss.

Please do not hesitate to contact me if the Court has any questions or concerns regarding this matter.

Respectfully,

POMERANTZ LLP

By: s/ Jeremy A. Lieberman
Marc I. Gross
Jeremy A. Lieberman
600 Third Avenue
New York, NY 10016
Tel: (212) 661-1100
Fax: (212) 661-8665
Email: migross@pomlaw.com
jalieberman@pomlaw.com

cc: All counsel (via ECF or First Class Mail)